

## **REMARKS**

This is a full and timely response to the non-final Office Action of December 8, 2005. Reexamination, reconsideration, and allowance of the application and all presently pending claims are respectfully requested.

Upon entry of this First Response, claims 1-3, 6-13, and 15-21 remain pending in this application. Claim 18 is directly amended herein to correct a minor typographical error. It is believed that the foregoing amendment adds no new matter to the present application.

### **Response to Double Patenting Rejections**

Claims 1-3, 6-13, and 15-21 presently stand rejected in the Office Action on the ground of non-statutory obviousness-type double patenting as allegedly being unpatentable over claims 1-3, 6-8, 10, and 13-20 of U.S. Patent No. 6,643,762 in view of *O'Connor* (U.S. Patent No. 6,408,378). Submitted herewith is a terminal disclaimer that obviates the double patenting rejections of the pending claims. See M.P.E.P. §804.02. Accordingly, Applicants respectfully request that the rejections of claims 1-3, 6-13, and 15-21 be withdrawn.

In filing the terminal disclaimer, Applicants rely upon the rulings of the Federal Circuit that the filing of such a terminal disclaimer does not act as an admission, acquiescence or estoppel on the merits of the obviousness issue. "In legal principle, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection." *Quad Environmental Tech. v. Union Sanitary Dist.*, 946 F.2d 870, 874 (Fed. Cir. 1991); *Ortho Pharmaceutical Corp. v. Smith*, 959 F.2d 936, 941-942 (Fed. Cir. 1992).

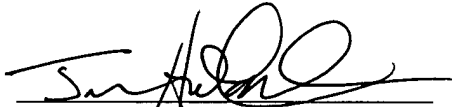
**CONCLUSION**

Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and all presently pending claims be allowed to issue. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

**THOMAS, KAYDEN, HORSTEMEYER  
& RISLEY, L.L.P.**

By: \_\_\_\_\_



Jon E. Holland

Reg. No. 41,077

(256) 704-3900 Ext. 103

Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, Colorado, 80527-2400